

**TOWN OF FOUNTAIN HILLS
MINUTES OF THE EXECUTIVE AND REGULAR SESSION OF THE
FOUNTAIN HILLS TOWN COUNCIL
February 5, 2009**

- **CALL TO ORDER**

Mayor Schlum called the Executive Session to order at 5:10 p.m.

AGENDA ITEM #1 – ROLL CALL AND VOTE TO GO INTO EXECUTIVE SESSION: (i) PURSUANT TO A.R.S. §38-431.03(A)(4), FOR DISCUSSION OR CONSULTATION WITH THE ATTORNEYS OF THE PUBLIC BODY IN ORDER TO CONSIDER ITS POSITION REGARDING CONTRACTS THAT ARE THE SUBJECT OF NEGOTIATIONS, IN PENDING OR CONTEMPLATED LITIGATION OR IN SETTLEMENT DISCUSSIONS CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION. (SPECIFICALLY, NEGOTIATIONS REGARDING THE FIREROCK TAX LITIGATION); AND (ii) PURSUANT TO A.R.S. §38-431.03(A)(1), DISCUSSION OR CONSIDERATION OF EMPLOYMENT, ASSIGNMENT, APPOINTMENT, PROMOTION, DEMOTION, DISMISSAL, SALARIES, DISCIPLINING OR RESIGNATION OF A PUBLIC OFFICER, APPOINTEE OR EMPLOYEE OF ANY PUBLIC BODY, EXCEPT THAT, WITH THE EXCEPTION OF SALARY DISCUSSION, AN OFFICER, APPOINTEE OR EMPLOYEE MAY DEMAND THAT THE DISCUSSION OR CONSIDERATION OCCUR AT A PUBLIC MEETING. (SPECIFICALLY, REVIEWING APPLICATIONS RECEIVED FOR POSSIBLE SERVICE ON THE PARKS AND RECREATION COMMISSION AND THE STRATEGIC PLANNING ADVISORY COMMISSION.)

Present for roll call were the following members of the Fountain Hills Town Council: Mayor Jay Schlum, Councilmember Dennis Contino, Vice Mayor Henry Leger, Councilmember Keith McMahan, and Councilmember Mike Archambault. Town Attorney Andrew McGuire, Town Manager Rick Davis, Deputy Town Manager Julie Ghetty and Town Clerk Bev Bender were also present.

Councilmember Dickey was absent; Councilmember Cassie Hansen Councilmember Hansen entered the meeting at 6:19 p.m.

Councilmember Archambault **MOVED** to convene the Executive Session and Councilmember Contino **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (5-0).

Without objection, the Executive Session adjourned at 6:28 p.m.

REGULAR SESSION

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Schlum called the Regular Session to order at 6:34 p.m.

INVOCATION – Deacon Richard Smith, Church of the Ascension

ROLL CALL – Present for roll call were the following members of the Fountain Hills Town Council: Mayor Schlum, Councilmember Contino, Vice Mayor Leger, Councilmember McMahan, Councilmember Hansen and Councilmember Archambault. Town Attorney Andrew McGuire, Town Manager Rick Davis and Town Clerk Bev Bender were also present.

Councilmember Dickey was excused from the meeting.

MAYOR'S REPORT

Mayor Schlum advised that Agenda Item #5 relating to the Botanical Garden had been removed from the agenda and would be placed on the agenda of the March 5, 2009, Regular Council meeting agenda.

- (i) Rotation of the Vice Mayor position to Councilmember Mike Archambault. Pursuant to Section 2-2-2 of the Fountain Hills Town Code, each member of the Council, except the Mayor, shall serve an eight-month term as Vice Mayor and shall perform the duties of the Mayor during his absence or disability.

Mayor Schlum stated that Vice Mayor Leger had done a great job serving in the capacity of Vice Mayor for the last eight months and thanked him for his effort and hard work. He stated that the role of Vice Mayor would now transfer to Councilmember Archambault. The Mayor congratulated newly appointed Vice Mayor Archambault and said that he looked forward to working with him.

Mayor Schlum and the members of the Council expressed appreciation to Councilmember Leger and welcomed Vice Mayor Archambault to his new position.

Councilmember Leger stated that it had been a pleasure to serve in the capacity of Vice Mayor.

- (ii) Recognition of Samuel Nicholson for his past service as a member of the Board of Adjustment.

Mayor Schlum requested that Mr. Nicholson come forward at this time and expressed appreciation for his many hours of hard work and dedicated service while serving as a long-term member of the Board of Adjustment. The Mayor presented Mr. Nicholson with a token gift in appreciation for his service (plaque).

• SCHEDULED PUBLIC APPEARANCES/PRESENTATIONS

- (i) Presentation by Judi Confer, the Executive Director of the River of Times Museum relating to proposed changes to the Museum.

Ms. Confer, the Executive Director of the River of Times Museum, addressed the Council and said it was her extreme pleasure to be present this evening representing the Museum. Ms. Confer introduced the designer of the proposed plan that was in place for the addition to the joint lobby in the Library/Museum building, Rex Witte, and provided brief background information relative to Mr. Witte. Ms. Confer stated that with the money they hoped to receive and which they were most grateful for as a result of Proposition 202 and the Fort McDowell Yavapai Nation, they intended to enhance the lobby even more thanks to Mr. Witte's design talents.

Mr. Witte thanked the Council for the opportunity to address them and to present some information relative to the materials that he planned to use on the lobby enhancement.

Mayor Schlum thanked Ms. Confer and Mr. Witte for their input and said that the Council and the citizens of Fountain Hills were excited about the proposed changes to the Museum and wished them good luck in this exciting venture.

- (ii) Presentation of two art donations by Parks and Recreation Director Mark Mayer – "Need a Lift" by Randy Hand and "Winter View" by Carlos Hadaway.

Parks and Recreation Director Mark Mayer addressed the Council and introduced the two art pieces, "Need a Lift" and "Winter View." Mr. Mayer provided brief background information on the artists and said that at the March meeting, when he presented a site plan to the Council showing exact locations, he would also discuss the fact that Mr. Hadaway (artist for "Winter View") had asked that his large piece of art be placed in a public area within the lobby of Town Hall. He had also asked, in recognition of the Parks & Recreation staff, that the

current names of all of the full-time staff in that department be thanked in conjunction with this particular piece of art via a plaque.

Mayor Schlum and members of the Council thanked Mr. Mayer for his presentation.

* **CALL TO THE PUBLIC**

Paul Getty, a resident of Fountain Hills, discussed Agenda Item #8 (Regarding the status of State Trust Land adjacent to the McDowell Mountain Preserve) and urged the members of the Council to try to find a way to preserve the mountains for the benefit of the Preserve and for the beauty of the Town. He requested that they give direction to the staff to develop several alternative plans that could be used to achieve preservation of the mountains.

Mayor Schlum thanked Mr. Getty for his remarks.

CONSENT AGENDA

AGENDA ITEM #1 – CONSIDERATION OF APPROVING THE TOWN COUNCIL MEETING MINUTES FROM JANUARY 9, 13 AND 15, 2009.

AGENDA ITEM #2 – CONSIDERATION OF RESOLUTION 2009-02, APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH THE FORT MCDOWELL YAVAPAI NATION RELATING TO PROPOSITION 202 FUNDING FOR 2008 IN THE AMOUNT OF \$189,900, AND AUTHORIZING THE EXPENDITURES TO THE FOLLOWING ENTITIES ONCE THE FUNDS ARE RECEIVED: (i) THE RIVER OF TIME MUSEUM IN THE AMOUNT OF \$15,000, (ii) THE FOUNTAIN HILLS CHAMBER OF COMMERCE VISITOR'S BUREAU IN THE AMOUNT OF \$45,000, AND (iii) THE FOUNTAIN HILLS UNIFIED SCHOOL DISTRICT #98 IN THE AMOUNT OF \$129,900.

Councilmember McMahan **MOVED** to approve the Consent Agenda items as listed and Councilmember Contino **SECONDED** the motion.

A roll call vote was taken with the following results:

Councilmember Dickey	Absent
Mayor Schlum	Aye
Councilmember Leger	Aye
Councilmember Hansen	Aye
Councilmember Contino	Aye
Councilmember McMahan	Aye
Vice Mayor Archambault	Aye

The motion **CARRIED UNANIMOUSLY** by those present (6-0).

REGULAR AGENDA

AGENDA ITEM #3 – CONSIDERATION OF CANCELLING THE FEBRUARY 19, 2009 REGULAR MEETING AT THE REQUEST OF MAYOR JAY T. SCHLUM, DUE TO MEETING WITH EL SALVADOR'S MINISTER OF FOREIGN AFFAIRS THE SAME EVENING.

Vice Mayor Archambault **MOVED** to cancel the Town's February 19, 2009, Regular Meeting due to a scheduling conflict for that date and Councilmember McMahan **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0).

AGENDA ITEM #4 – CONSIDERATION OF APPOINTING THREE (3) CITIZENS TO THE BOARD OF ADJUSTMENT FOR A TWO-YEAR TERM BEGINNING FEBRUARY 1, 2009 AND ENDING JANUARY 31, 2011.

Mayor Schlum **MOVED** to appoint three citizens, Richard Gohl, John Kovac III, and Robert Row to the Board of Adjustment for a two-year term beginning February 1, 2009 and ending January 31, 2011, and Vice Mayor Archambault **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0).

AGENDA ITEM #5 – DISCUSSION WITH POSSIBLE DIRECTION TO STAFF RELATING TO THE REDUCED SCOPE OF WORK AND REDUCED FEE FOR PARKING IMPROVEMENTS AT THE BOTANICAL GARDEN.

NOTE: AS PREVIOUSLY MENTIONED BY THE MAYOR, AGENDA ITEM #5 (LISTED ABOVE) WAS CONTINUED TO THE MARCH 5, 2009, REGULAR COUNCIL MEETING.

AGENDA ITEM #6 – CONSIDERATION OF A SPECIAL EVENT APPLICATION FOR THE ST. PATRICK'S DAY CELEBRATION PRESENTED BY THE TOWN OF FOUNTAIN HILLS TO BE HELD IN FOUNTAIN PARK, WHICH IS SCHEDULED FOR MARCH 14, 2009, AND WILL REQUIRE CLOSURE OF SAGUARO BOULEVARD NORTH OF AVENUE OF THE FOUNTAINS TO PALISADES BOULEVARD FROM 6:00 A.M. TO 8:00 P.M.

Mayor Schlum announced that one presentation would be made for Agenda Items 6 and 7.

Bryan Hughes addressed the Council relative to both agenda items and said that he was present to talk about some changes to the annual St. Patrick's Day Celebration. He announced that for the first time he could remember, the event would be held on a weekend that St. Patrick's Day did not fall on and expressed the opinion that there were some definite advantages associated with that. Mr. Hughes said that since the celebration would be held on a Saturday, staff was hopeful that more people would be able to attend and enjoy the annual Green Fountain event. He advised that the celebration would take place from 10:00 a.m. until 6:30 p.m. and noted that this year staff was working closely with Doug Schmidt who had taken the lead and was serving as Chairman of the group -- a Committee comprised of the Chamber of Commerce, Town staff and the Fountain Hills Community Foundation. He noted that the St. Patrick's Day Celebration went back to the early 1980's.

Mr. Hughes discussed dyeing the Fountain green and reported that it was done twice on the day of celebration. He added that the green fountain could be viewed at Noon and again at 5:00 p.m. He highlighted some of the activities planned for youths, including a kids' parade along the sidewalk, and encouraged attendance at this wonderful event. He commented on the variety of Irish entertainment that would also be part of the celebration and noted that the Phoenix Scottish Pipe Band would play at Noon when the fountain turned green for the first time.

Mr. Hughes stated that this year they were also adding a Community Stage and instead of just music throughout the day they would have another stage in another part of the park where local groups would have an opportunity to perform various acts. He noted that this year they planned to charge an admission fee (\$5.00 fee for adults 18 years of age and older) and added that staff planned to enhance efforts to identify corporate sponsorships for future celebrations to help offset costs. He advised that net proceeds this year would benefit lots of local charities.

Discussion ensued relative to the fact that recycling bins would be located throughout the park; food and beverages that would be available with many being provided by non-profits; the fact that expenses would be approximately \$35,000 for the day and revenues would be generated as a result of the admission fees, sponsorships and sales; proposed traffic restrictions; and the fact that after the Town's cost was recouped the excess funds would be donated to various local charities.

Mr. Schmidt addressed the Council and said that this event had been four years in the making and encouraged everyone to attend and enjoy the festivities. He thanked everyone who had worked hard to ensure that the celebration was a success and indicated his willingness to respond to questions from the Council.

Mayor Schlum thanked Mr. Hughes and Mr. Schmidt for their hard work and efforts with regard to this exciting annual event and he too encouraged the residents of Fountain Hills and surrounding communities to take part in the celebration.

Additional discussion ensued relative to the St. Patrick's Day Celebration and Mr. Hughes responded to a variety of questions posed by the members of the Council.

Councilmember Leger asked whether Mr. Hughes was going to have two new interns helping him out this year and Mr. Hughes introduced Nicole Koehlinger from Indiana University and Megan Leonard from the University of Illinois to the members of the Council.

Councilmember Contino **MOVED** to approve the St. Patrick's Day Celebration and Special Event Liquor License for Sons of AMVETS Squadron 7 as presented and Councilmember Hansen **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0).

AGENDA ITEM #7 – CONSIDERATION OF A SPECIAL EVENT LIQUOR LICENSE APPLICATION SUBMITTED BY LARRY ANTES (SONS OF AMVETS SQUADRON 7) FOR SUPPORT OF THE ST. PATRICK'S DAY CELEBRATION TO BE HELD IN FOUNTAIN PARK, WHICH IS SCHEDULED FOR MARCH 14, 2009 FROM 10:00 A.M. TO 6:30 P.M.

For discussion and motion see Agenda Item #6.

AGENDA ITEM #8 – PRESENTATION AND DISCUSSION WITH POSSIBLE DIRECTION TO STAFF REGARDING THE STATUS OF STATE TRUST LAND ADJACENT TO THE MCDOWELL MOUNTAIN PRESERVE.

Parks and Recreation Director Mark Mayer addressed the Council relative to this agenda item and said that a number of weeks ago at a McDowell Mountain Preservation Commission (MMPC) meeting the issue of the future of the mountains located to the west were discussed. He said that the Commissioners themselves had done a great deal of research into this matter and this evening he wanted to turn the podium over to the Chair of the MMPC, Bill Myers, who would discuss the matter in greater detail. He added that this item would also be on the agenda of the Council's joint meeting with the Commission as well.

Mr. Myers addressed the Council and thanked them for the opportunity to talk about the mountains located to the west of Fountain Hills. He also thanked them for the recent appointment of three more Commission members for a total of seven.

Mr. Myers highlighted a PowerPoint presentation and referred to four bullet points that he said summarized the three-page letter with attachments that hopefully was contained in the Council's packets. He also referred to a slide that depicted the two mountains located west of Town and said that they could be seen from many east/west streets. He reported that the mountains were approximately 3,800 feet at their peak. He also noted in the slide that they could see part of the Fountain Hills Preserve and that was sometimes referred to as a jeep trail or "The Promenade."

Mr. Myers discussed the four bullet points as follows:

- * The State of Arizona owned the twin mountains that overlook Fountain Hills;
- * The State would sell these mountains to the highest bidder;
- * The Town Council currently had no authority to control development of the mountain;

- * The Town might want to consider alternatives to gain some control over the development of the area (if any).

Mr. Myers commented that he did not want to overstate the case and this was not going to happen right away. He added that the State did not know whether they were going to sell the land in "one chunk" or "multiple chunks" and to date no appraisal had been done on the property. He noted that when the group met with the State they were not able to find out how long the State thought it would be before they sold the mountains. Mr. Myers explained that the mountains were located just outside of the Town's limits and referred to a map that showed the existing 940 acres preserved for Fountain Hills.

Mr. Myers stressed the importance of preserving the mountains for its citizens and added that he had spoken with some realtors and others who believed that if development occurred on those mountains, there might be a negative effect on property values within the Town (both the residential and retail segments of Fountain Hills). He informed the Council that the mountains could be developed and said that there was a paved road at the top of Thompson Peak now that was higher than these mountains and it had a two-story building with towers on it. He stated that although not every square foot would be able to be developed, a significant portion of it certainly could be.

Mr. Myers explained that this was really an informational-type meeting to provide the Council with important data relative to the fact that the mountains were developable and to urge them to take steps to preserve them in perpetuity for the benefit of the entire Town. He said that perhaps the Council would direct the Commission, staff or outside parties to do some work in this area and determine what alternatives were available and associated pros and cons. He added that the members of the Commission had a lot of questions as well and that was why they collectively wrote the letter contained in the Council's packets. Mr. Myers thanked the Council for the opportunity to address them and indicated his willingness to respond to questions.

Mayor Schlum thanked Mr. Myers for his presentation.

In response to a request from Vice Mayor Archambault, Mr. Myers referred to a map and identified where the State Park north of Town was located and its boundaries. He said that he did not believe that the State Trust Land was accessible from roads in Scottsdale at this time, but added that he was not positive about that. He said he was also unsure whether the area was surrounded by any other preserve and stated the opinion that most of it, if not all, was preserved by Scottsdale.

Mr. Myers commented that, as outlined in the letter, one possible alternative might be for Scottsdale to sell some ground in the future should they need money (one of about a dozen alternatives contained in the letter).

Councilmember Leger thanked Mr. Myers and the members of the Commission for their work in this area and asked if it was fair to say that currently the mountains being referred to by Mr. Myers were surrounded either by preserve or County park land. He asked whether there was any private property that abuts the mountains.

Mr. Myers stated that he did not have the answer to that question at this time and indicated that further research would be conducted to find out the answer to Councilmember Leger's query.

Councilmember Leger said that he believed Mr. Myers was saying that if it was surrounded by preserve or State/County park land, Scottsdale might sell off a section to allow access into that area because currently the mountains were land locked with undevelopable property.

Mr. Myers said he would generally agree but again would have to conduct further research into the issue. He added that laws could be changed and within the next 50 years many attitudes could change and perhaps people would not be as preservation minded as they were today.

Vice Mayor Archambault asked whether the Commission had asked the State Land Office whether they would be willing to parcel off that section and perhaps sell it at a preserve price.

Mr. Myers replied that they asked when they would sell it and received a vague answer and if they were going to sell it all in one chunk, slice it off or went right down the ridge (300 feet over and make that a line). He advised that they were told that it was just too early in the process to obtain answers to those questions. Mr. Myers added that the State, by law, had to sell it to the highest bidder.

Vice Mayor Archambault referred to the legislation they were trying to get placed on a ballot (and to date had been unsuccessful in that regard) and that, if passed, would have allowed the State Trust Land Commissioner to deem the land suitable for what he thought would work the best. He expressed hope that the Legislature would go down that path again in an effort to put this important issue before the voters.

Mr. Myers confirmed that the joint meeting between the Council and the Commission would take place on the 24th.

Mayor Schlum thanked Mr. Myers for the information provided this evening.

In response to a question from the Mayor, Town Attorney Andrew McGuire expressed the opinion that Scottsdale's border was all the way from the northern most tip to the southern-most tip (down to the Reservation) and added that he did not believe that there were any gaps.

The Vice Mayor stated that Scottsdale could conceivably purchase the land and Mr. Myers said that anyone could. He noted that the Growing Smarter funds were available to cities and towns and approximately 120 other entities in the State. He said he had also been told that under current conditions it looks as though approximately \$1 billion might not be enough to buy all of the 36,000 acre study area so they were hoping that the State makes some type of adjustments to the Constitution to be able to get a better price on that for preservation.

Mayor Schlum reiterated his appreciation to Mr. Myers and the members of the Commission and said he looks forward to meeting with them again on the 24th.

AGENDA ITEM #9 – CONSIDERATION FOR APPROVING RESOLUTION 2009-01, ABANDONING WHATEVER RIGHT, TITLE OR INTEREST THE TOWN HAS IN THE CERTAIN EASTERLY HALF RIGHT-OF-WAY WIDTH OF MARY MUNDE DRIVE (WALK) AND A 10-FOOT PUBLIC UTILITY EASEMENT, LANDSCAPE EASEMENT AND SIDEWALK EASEMENT LOCATED AT THE WESTERLY PROPERTY LINE OF TOWN CENTER 2, LOT 1 (16410 E. EL LAGO BLVD.) AS RECORDED IN BOOK 474 OF MAPS, PAGE 28, RECORDS OF MARICOPA COUNTY, ARIZONA; WITH VARIOUS EASEMENTS RETAINED, WITH STIPULATIONS. ROW08-01, EA07-29 (ROMAN CATHOLIC DIOCESE OF PHOENIX).

Town Engineer Randy Harrel addressed the Council and reviewed the staff report previously distributed to the members of the Council. He said that the proposal before them was to abandon the easterly half right-of-way on Mary Munde Drive or Walk and also an existing ten-foot easement running along side of it (just east of the roadway). He noted that the applicant was the Roman Catholic Diocese of Phoenix. Mr. Harrel referred to a map displayed in the Council Chambers and noted that Mary Munde Drive was originally platted as a roadway but currently had a sidewalk on it. He explained that the Town would maintain a number of easements within the abandonment area, including a 10-foot sidewalk easement, a sewer and drainage easement along the south side and said that the entire right-of-way would not allow any buildings or parking lots in the area.

Mr. Harrel advised that all of the affected utility companies had been notified and indicated approval and added that staff recommended approval subject to the stipulations outlined in the Staff Report.

Mayor Schlum thanked Mr. Harrel for his presentation and requested that he outlined the two stipulations, which included:

- * The Church would take over operation and maintenance of the sidewalk
- * The Church would take over operation and maintenance of the landscaping located in the abandoned areas as well as all of the landscaping/irrigation along Avenida Vida Buena and along El Lago.

Mr. Harrel reported that three letters were received regarding this proposal including one from the Vida Buena Homeowners Association, which had met with the Church and were in agreement with the abandonment. He added that the remaining two letters were from homeowners who were not in agreement with their Homeowners Association. He advised that staff responded to the four points made in one of the letters and said that the other letter just indicated a concern regarding the open space in that area. Mr. Harrel indicated his willingness to respond to questions.

Councilmember Hansen referred to the letters that were received and stated that one of Mr. Harrel's responses was very good and had addressed all of the concerns. She asked whether the authors of the letter were satisfied once they had an opportunity to review his remarks.

Mr. Harrel said that he had not heard from the citizens since forwarding his letter to them.

Councilmember Leger referred to the "no build" portion of the agreement and commented on the fact that this was not noted in the stipulations. He requested input from Mr. Harrel relative to this matter.

Mr. Harrel explained that because the wording was on Exhibit B of the resolution itself he did not believe that it must be included as part of the stipulations as well. He added that the resolution and accompanying Exhibit would be a recorded document.

Councilmember Leger stated the opinion that it might be clearer for the homeowners to understand that portion of the agreement if it was in fact noted as part of the stipulations. He said that he had had conversations with the homeowners and he believed this would go far to addressing their concerns.

Mr. Harrel replied that the stipulations needed to be completed before staff actually recorded the abandonment and the easement would be a legal document recorded down at the County in perpetuity.

Councilmember Leger thanked Mr. Harrel for the clarification.

In response to a question from Vice Mayor Archambault, Mr. Harrel explained that the sidewalk meandered a little bit out of the right-of-way. He added that they would still had a 40-foot right-of-way so theoretically it would be possible for a street to go in there someday but he had never heard anyone express an interest in doing so.

The Vice Mayor commented on the fact that this particular piece of property had an HPE on that end of the lot and said what was concerning him was that if they abandoned this easement and gave it to the property owner and then they decided to move that HPE to put some buildings there, they still had to use the square footage of HPE and move it somewhere on the lot. He wanted to know if they could use that 42 feet as part of the HPE.

Mr. Harrel responded that that would be a Town Council decision.

Vice Mayor Archambault noted that currently there was nothing in place to restrict them from doing that. He asked whether it would be appropriate for him to make an amendment relative to the fact that the dedication of the 42 feet to that property owner could not be used as HPE since they already had it as preserved space and he would not want to duplicate the square footage.

Mr. McGuire advised that any stipulations the members of the Council wanted to place on an abandonment that was acceptable to the property owner were within their realm. He added that the condition could also be removed by a Council at a later date if deemed appropriate.

Vice Mayor Archambault said that he did not want to see this particular lot owner say that he was burdened by this large piece of HPE and so therefore he would like some relief by using the 42 feet. He expressed the opinion that they bought that lot and the HPE rides with that lot. He added that he believes they had the right to move it around on that lot. He said that he did not want to enrich them by adding additional footage that they could disturb.

Vice Mayor Archambault **MOVED** that another staff stipulation be added -- that the property being deeded over to this particular lot owner could not be utilized as HPE and Councilmember Hansen **SECONDED** the motion. (Approving Resolution 2009-01, subject to all stipulations.)

Councilmember Leger stated that this was something that he could support having been contacted by the residents in that area a couple of months ago and after speaking with Mr. Harrel and others involved. He noted that the residents did have significant concerns about the HPE being transferred, which would have allowed the Church, particularly the parking lot, to move very close to the property line. He said that he believed that the added stipulation was very wise and appropriate.

The motion **CARRIED UNANIMOUSLY** by those present (6-0).

In response to a request for a clarification from Town Clerk Bev Bender, Mr. McGuire explained that since no main motion was made to approve Resolution 2009-01, the motion made by the Vice Mayor and seconded by Councilmember Hansen was in fact the main motion with the new stipulation so another motion was not necessary.

AGENDA ITEM #10 – CONSIDERATION OF RESOLUTION 2009-06, ADOPTING BY REFERENCE THE “DRAINAGE POLICIES AND STANDARDS FOR MARICOPA COUNTY, ARIZONA.”

Mayor Schlum advised that Agenda Items #10 and #11 would be discussed at the same time.

Mr. Rees addressed the Council and noted that Article 14-7 of the Town Code (Uniform Drainage Regulations) currently did not reflect the current additions published by Maricopa County. He said that the current language referenced a manual he displayed and noted that the manual was adopted back in 2005 by the Town. He advised that since that time standards had been updated and provided justification for approving Resolution 2009-06 and Ordinance 09-02.

Councilmember Leger **MOVED** to approve Resolution 2009-06 and Councilmember McMahan **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0).

AGENDA ITEM #11 – CONSIDERATION OF ORDINANCE 09-02, ADOPTING BY REFERENCE THE “DRAINAGE POLICIES AND STANDARDS FOR MARICOPA COUNTY, ARIZONA,” AMENDING CHAPTER 14 OF THE TOWN CODE ACCORDINGLY AND PROVIDING PENALTIES FOR VIOLATIONS.

For discussion, see Agenda Item #10.

Councilmember McMahan **MOVED** to approve Ordinance 09-02 and Councilmember Leger **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0).

AGENDA ITEM #12 – CONSIDERATION OF A SERVICES AGREEMENT WITH 3D/INTERNATIONAL, INC. IN THE AMOUNT OF \$190,401.33 FOR THE ALAMOSA SIDEWALK IMPROVEMENT.

Mr. Harrel addressed the Council relative to this agenda item and referred to schematics depicting the project displayed in the Chambers. He explained that plans for this project were prepared using pedestrian design assistant grants from the Maricopa Association of Governments (MAG) and construction of this sidewalk would "piggyback" on a job order contract with the Mohave Educational Services Cooperative with 3D/International, Inc. Mr. Harrel reported that the designer's cost estimate for this project was \$185,000 over a year ago and the Town's budget was \$245,000. Mr. Harrel explained that the project basically consisted of constructing a six-foot wide meandering sidewalk on the south side of Alamosa Avenue and noted that it ran almost to the Charter school at the end of the existing sidewalk over to Del Cambre, where there was a complex consisting of the Boys & Girls Club, Four Peaks Park and Four Peaks School. Mr. Harrel provided the Council with additional information relative to the project and stated that staff recommended approval of the contract. He noted that Mr. Bryan Lewis, representing 3D/International, Inc., was present to respond to any questions from the Council.

In response to a question as to why staff decided to "piggyback" rather than go out for regular bidding, Mr. Harrel said that the savings in time and cost justified moving in that direction and added that he believed that this process was recommended by the Town Attorney.

Mr. McGuire advised that the piggyback process was generally used in an effort to avoid duplicating efforts for similar projects.

Mayor Schlum commented on the fact that staff time was saved and asked how the bidding process differed.

Mr. Harrel explained that the Mohave Educational Services Agreement utilized a standardized construction cost estimating manual. He reported that this project was right at the engineer's estimate and substantially below the amount that was had been budgeted for the project.

Councilmember Leger stated that this project had been in the works for a while and asked where they were at in the process.

Mr. Harrel said that they had a complete design for the project and the Town had paid its portion of the design costs but most of those costs were paid by MAG under a grant agreement. He confirmed that the grant funding had to be used specifically for the design and not for construction itself.

Discussion ensued relative to the awarding of grants; the purpose of the sidewalk (provide sidewalk access for all of the residents in the area and serve as a connector); and pedestrian safety.

Mayor Schlum discussed the importance of looking at every dollar that was being spent particularly during these difficult economic times.

Councilmember McMahan commented that although he believed that the project was a worthy one, he would prefer that they postpone it until a later date. He said that he would not vote in support of moving forward at this time.

Vice Mayor Archambault referred to some of the Council's goals including pedestrian safety/public safety, safe schools and sidewalk connectivity. He stated the opinion that this project meets all three of those goals so he would vote in support of the project.

Mayor Schlum said that every capital dollar was very precious and agreed that the project was in alignment with the goals set by Council as well as the Strategic Plan. He stressed the importance of connectivity, particularly between the schools and the Boys & Girls Club, and so as limited as they were with dollars this was an area

where conflict existed between pedestrians and vehicles. The Mayor said that this project was worthy of consideration.

Councilmember Contino questioned whether they might be "jumping the gun" on this issue.

Discussion ensued relative to the fact that research had not been conducted to determine specific areas where children had been hit by cars; the importance of enhancing public safety and improving the community; the fact that the Council had been diligent in bringing projects forward that had limited overall spending during these difficult economic times; Councilmember McMahan's statement that despite the fact that everyone had made excellent comments, in view of the Town's financial situation the project should be delayed another 12 months; Councilmember Hansen's question regarding whether striping could be done along that street for the short term (a pedestrian lane similar to a bike lane) and Mr. Harrel's opinion that that could be done; concerns associated with striping narrow streets and resulting confusion (bike lane or pedestrian lane); the fact that crosswalks provide a false sense of security and could in fact increase danger; and the fact that there was a capital budget in place with almost \$10 million in it and Mayor Schlum's comment that those monies were to be used to invest in the community's infrastructure and added value to the community.

Councilmember Hansen asked whether this item was included on the Stimulus "Wish List" and Mr. Harrel advised that it was included but might not be much longer because of the nature of the project and its location on a collector street rather than an arterial street.

Vice Mayor Archambault commented on the fact that this was a passionate issue because there were a lot of children in that area.

Councilmember Hansen asked if there was any way to avoid taking out trees and Mr. Harrel stated that they meandered the sidewalk around virtually all of the trees and he advised that the Fontana Homeowners Association specifically had asked if the trees could be removed along their frontage. He said that several trees would have had to have been removed anyway.

Mayor Schlum questioned how this item could be addressed in the future if it was not approved at this time.

Councilmember Hansen **MOVED** to table this agenda item to the next Council meeting and Vice Mayor Archambault **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0).

AGENDA ITEM #13 – QUARTERLY UPDATE BY THE DIRECTOR OF PLANNING AND ZONING ON ACTIVITIES AND PROJECTS.

Director of Planning and Zoning Richard Turner addressed the Council relative to this agenda item and highlighted a brief PowerPoint presentation relative to recent and future departmental activities and projects. Mr. Turner advised that staff recently completed a series of meetings with small groups of local businesses on recent changes to the Sign Regulations. He said that staff handed out copies of a brochure that highlighted the major changes to the regulations and emphasizes the changes to the temporary signs (A-frames, banners, balloons, and pennants). He noted that 33 businesses were invited to attend and 15 showed up.

Mr. Turner said that the department would soon be holding a Household Hazardous Waste Collection Event in the high school parking lot (February 28th from 9:00 a.m. until 1:00 p.m.). He reported that they were financing the event with a grant received from the Arizona Department of Environmental Quality. Mr. Turner added that this afternoon he also learned that the department had received \$3,000 from the Fort McDowell Yavapai Nation for that project.

Mr. Turner advised that residents could bring paint, pesticides, old motor oil, herbicides, old pool chemicals, etc. to the event.

Discussion ensued relative to efforts that had been expended to publicize the event; the fact that staff was also finishing up the latest edition of the Land Use Analysis and Statistical Report; the fact that the Planning Commission was scheduled to hear the Planned Area Development Zoning District on February 12th and it would come before the Council on March 5th; the continuing efforts on the Smart Growth Score Card; the two Electronics Recycling events that had been held and the fact that another one had been scheduled for March 14th; ongoing efforts relative to the General Plan Update; the fact that the Planning and Zoning Commission would be holding a Work Study Session on proposed changes to the cut/fill retaining wall regulations on February 26th prior to their regular meeting and the fact that staff was very involved in the trash hauling recycling issue and had scheduled a meeting of the environmental group for next Tuesday, February 10th as well as a Town Hall late in February.

Mayor Schlum thanked Mr. Turner for his hard work and excellent update.

AGENDA ITEM #14 – CONSIDERATION OF ADOPTING COUNCIL GOALS FOR FISCAL YEAR 2009-2010.

Town Manager Rick Davis addressed the Council relative to this agenda item and stated that on October 5, 2008, the Council met in a prioritization exercise at the Community Center and they examined 60 different areas of Town services (Areas of Service). He advised that from that exercise the Council prioritized a number of areas for further discussion and at the January 9th Retreat the list was reduced down to 30 areas of focus. He noted that from that point, staff was able to gather those together and create for the Council's consideration 13 goals for 2009 and 2010. Mr. Davis reported that follow up meetings had been held with staff in order to assign stewardship of each goal to a department or individuals and they had also considered all of the individual initiatives that came out of the January 9th meeting as well.

Mr. Davis highlighted a brief PowerPoint presentation outlining the various goals (a complete copy of the presentation was on file in the office of the Town Clerk). He highlighted and expanded upon the following 13 goals:

- 1) Ensure that the Strategic Plan continues to be implemented and updated
- 2) Ensure development of the former State Trust Land proceeds in a way which was most responsible and beneficial for the Town
- 3) Maintain and develop good roads and walkways within fiscal constraints
- 4) Make optimal use of trails and expand public access to parks and open space
- 5) Maintain service level and functionality of parks
- 6) Explore the need for an environmental commission with specific responsibility to develop new measures and support new initiatives that improve the quality of our natural environment
- 7) Maintain and promote our small town character by enhancing public/private collaboration to develop new and improved existing special events
- 8) Enhance customer service and enrich our citizens' lives by expanding access to Town offerings and services, developing innovative approaches to service delivery and developing/implementing methods of gathering citizen input.
- 9) Demonstrate organizational progress to citizens and promote transparency in government
- 10) Enhance the Town's economic base by maintaining strong business relations, developing and implementing innovative strategies to bring beneficial businesses to Town, supporting an environment conducive to new business development and developing initiatives designed to help businesses succeed
- 11) Build and strengthen internal/external relationships utilizing mutual respect as the basis
- 12) Maintain fiscal responsibility while maintaining organizational and functional integrity
- 13) Support initiatives which enhance public safety in our community

Mayor Schlum thanked Mr. Davis for his presentation.

Councilmember Contino **MOVED** to accept the Council's goals for Fiscal Year 2009-2010 and Councilmember McMahan **SECONDED** the motion.

Town Clerk Bev Bender advised that there were no citizens wishing to speak on this agenda item.

Mr. Davis encouraged the Council to provide input and thanked them for the opportunity to address then this evening. The Council discussed the goals and directions as outlined by Mr. Davis and offered the following amendments to the Goals for Fiscal Year 2009-2010:

Councilmember Hansen:

Goal #2 - This goal should include being responsible to the citizens as well. Decided to change the word from "Town" to "community."

Goal #5 - Take another look at the "soft start concept" or other alternatives to be able to run the fountain longer.

Mr. Davis advised that he spoken with Mark and they had determined that they could actually reduce costs at the fountain by doing less start ups - they could then run the fountain longer than they currently were at one time. More than 50% of the cost of running the fountain was in starting it up. So the idea was to start it less but run it longer in an effort to reduce costs. Staff would discuss this further and test the theory.

Mayor Schlum commented on the "soft start concept" and suggested that someone provide the Town Manager with new information relative to possible costs savings/alternatives.

Councilmember Hansen:

Goal#7 - There was a very strong possibility that the Chamber would soon be getting out of the community event business as far as the luminaries went and the Thanksgiving Day Parade. If the Town wanted those events to continue, they were going to have to look into incorporating them or taking an active part in the process in order to save those two events.

Mr. Davis asked whether Councilmember Hansen was suggesting that staff look into the possibility of greater support for Chamber events and she said that they were looking at it from a financial standpoint. She said that perhaps they could just add something about working with the Chamber on maintaining the community events.

Vice Mayor Archambault asked whether it was being suggested that the Town add additional funds to those events to keep them on-going and expressed concerns about the Town's funding ability.

Mayor Schlum commented that lately he had seen the Town work more on public/private partnerships and stressed the importance of cooperation in this regard.

Councilmember Hansen stated that her intent was not to get down to the "nitty gritty" but simply to ensure that it not slip through the cracks.

The Vice Mayor said that he would certainly welcome discussions about this issue but stressed the importance of exercising caution as far as where the Town went with it.

Councilmember Contino commented on the fact that the parade was getting larger every year and the Council had to make decisions on how they want to run it and about the costs. He recommended that this issue be placed on the agenda of a future Work Study Session for further discussion.

Councilmember Leger suggested that they add a goal that talked about exploring cost sharing opportunities with the Chamber with respect to the Thanksgiving Day Parade and luminaries. He said that they might not have the money at this time but they could certainly engage in that dialogue. He added that even if they did not do it this Fiscal Year, there might be some support going forward and that might keep the events in place for now.

Mayor Schlum commented that this could include other organizations stepping up to the plate.

Mr. Davis stated that he would add this recommendation as an amendment under Goal #7.

Councilmember Hansen:

Goal #8 - Continue to work on the Town's website (helping it to become more user friendly. She added that staff could also look into developing a web-based survey tool.

Mr. Davis stated that the web-based survey tool was in process right now.

Councilmember Hansen:

Goal #9 - In talking about organizational progress, a number of good observations resulted after the staff's Retreat and some of those involved the feasibility and possible budgetary benefit of in-house legal services. Councilmember Hansen said that she wondered if this was something that the Council would like to add under Goal #9 - She asked whether this was a cost benefit or not.

Mayor Schlum said that he thinks that item could be under just about anything as far as day-to-day operations.

Mr. Davis suggested that it might fall under Goal #12.

Mayor Schlum stated that he believed it should just be an "across the board" goal -- continuing to look at cost savings relative to organizational efforts as well as work flow as needed change in the community. He added that this issue was part of the budgetary process that should be discussed all of the time.

Mr. Davis recommended that they add a portion that states, "Continue to utilize work flow analysis to identify potential financial savings."

Mayor Schlum said that if they needed to draw it out further they could state, "Consideration of in-house versus contractual services for operations."

Mr. Davis summarized the Council's discussion by suggesting the following amendment: "Continue to utilize work flow analysis to identify cost savings via contracting, consolidation of services, etc."

Councilmember Hansen:

Goal #10 - Include, "Continue to review and revise outdated, over-reaching ordinances, codes, policies and procedures."

Mayor Schlum concurred with Councilmember Hansen's suggestion and thanked her for all of her valuable input.

Councilmember Contino, the maker of the motion, **MOVED** to accept the amendments as discussed above and Councilmember McMahan **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0).

Mayor Schlum thanked Mr. Davis for his presentation and Mr. Davis in turn thanked the Council for their valuable input.

AGENDA ITEM #15 – DISCUSSION WITH POSSIBLE DIRECTION TO STAFF REGARDING THE FIREROCK LITIGATION.

Mr. McGuire advised that in order to get any direction in moving forward with discussions in litigation, a public item was required. He said that every time that the Council conducted an Executive Session to seek direction on

how to move forward afterwards they would need to come back with a public item and that was what this agenda item was about.

Vice Mayor Archambault **MOVED** to direct the Mayor, Town Attorney and outside litigation counsel to proceed as recommended in Executive Session and Councilmember McMahan **SECONDED** the motion.

Ms. Bender advised that there were no citizens present wishing to speak on this item.

Councilmember Hansen stated that she would not participate in the vote on this agenda item.

The motion **CARRIED UNANIMOUSLY** by those present and voting (5-0).

AGENDA ITEM #16 – COUNCIL DISCUSSION/DIRECTION TO THE TOWN MANAGER. ITEMS LISTED BELOW ARE RELATED ONLY TO THE PROPRIETY OF (i) PLACING SUCH ITEMS ON A FUTURE AGENDA FOR ACTION OR (ii) OR DIRECTING STAFF TO CONDUCT FURTHER RESEARCH AND REPORT BACK TO THE COUNCIL:

A. None

AGENDA ITEM #17 – SUMMARY OF COUNCIL REQUESTS AND REPORT ON RECENT ACTIVITIES BY THE TOWN MANAGER

Mayor Schlum stated that Mr. Davis would work with the McDowell Mountain Preservation Commission in an effort to get some answers regarding the twin peaks issue as previously discussed.

AGENDA ITEM #18 – ADJOURNMENT

Councilmember Contino **MOVED** that the Council adjourn the meeting and Councilmember McMahan **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0). The meeting adjourned at 8:52 p.m.

TOWN OF FOUNTAIN HILLS

By _____
Mayor Jay T. Schlum

ATTEST AND
PREPARED BY:

Bevelyn J. Bender, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Session held by the Town Council of Fountain Hills on the 5th day of February 2009. I further certify that the meeting was duly called and that a quorum was present.

DATED this 5th day of March 2009.

Bevelyn J. Bender, Town Clerk